

(2) an order to pay a penalty into court; and

(3) an order to pay to the other party the amount of the reasonable expenses incurred by the other party because of the filing of the pleading or motion, including reasonable attorney's fees.

(d) The court may not award monetary sanctions against a represented party for a violation of Section 10.001(2).

(e) The court may not award monetary sanctions on its own initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party or the party's attorney who is to be sanctioned.

(f) The filing of a general denial under Rule 92, Texas Rules of Civil Procedure, shall not be deemed a violation of this chapter.

Sec. 10.005. **ORDER.** A court shall describe in an order imposing a sanction under this chapter the conduct the court has determined violated Section 10.001 and explain the basis for the sanction imposed.

Sec. 10.006. **CONFLICT.** Notwithstanding Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with this chapter.

SECTION 2. This Act takes effect September 1, 1995, and applies only to a pleading or motion in a suit commenced on or after that date. A pleading or motion in a suit commenced before the effective date of this Act is governed by the law applicable to the pleading or motion immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on February 1, 1995, by a viva-voce vote; the Senate concurred in House amendments on May 8, 1995, by a viva-voce vote; passed the House, with amendments, on May 4, 1995, by a non-record vote.

Approved May 18, 1995.

Effective September 1, 1995.

CHAPTER 138

S.B. No. 32

AN ACT

relating to venue for civil actions.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter A, Chapter 15, Civil Practice and Remedies Code, is amended to read as follows:

SUBCHAPTER A. DEFINITIONS; GENERAL RULES [RULE]

Sec. 15.001. **DEFINITIONS.** In this chapter:

(a) "Principal office" means a principal office of the corporation, unincorporated association, or partnership in this state in which the decision makers for the organization within this state conduct the daily affairs of the organization. The mere presence of an agency or representative does not establish a principal office.

(b) "Proper venue" means:

(1) the venue required by the mandatory provisions of Subchapter B or another statute prescribing mandatory venue; or

(2) if Subdivision (1) does not apply, the venue provided by this subchapter or Subchapter C.

Sec. 15.002. VENUE: GENERAL RULE. (a) Except as otherwise provided by this subchapter or Subchapter B or C, all lawsuits shall be brought:

(1) in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred;

(2) ~~[cause of action accrued or]~~ in the county of defendant's residence at the time the cause of action accrued if defendant is a natural person;

(3) in the county of the defendant's principal office in this state, if the defendant is not a natural person; or

(4) if Subdivisions (1), (2), and (3) do not apply, in the county in which the plaintiff resided at the time of the accrual of the cause of action.

(b) For the convenience of the parties and witnesses and in the interest of justice, a court may transfer an action from a county of proper venue under this subchapter or Subchapter C to any other county of proper venue on motion of a defendant filed and served concurrently with or before the filing of the answer, where the court finds:

(1) maintenance of the action in the county of suit would work an injustice to the movant considering the movant's economic and personal hardship;

(2) the balance of interests of all the parties predominates in favor of the action being brought in the other county; and

(3) the transfer of the action would not work an injustice to any other party.

(c) A court's ruling or decision to grant or deny a transfer under Subsection (b) is not grounds for appeal or mandamus and is not reversible error.

Sec. 15.003. MULTIPLE PLAINTIFFS AND INTERVENING PLAINTIFFS. (a) In a suit where more than one plaintiff is joined each plaintiff must, independently of any other plaintiff, establish proper venue. Any person who is unable to establish proper venue may not join or maintain venue for the suit as a plaintiff unless the person, independently of any other plaintiff, establishes that:

(1) joinder or intervention in the suit is proper under the Texas Rules of Civil Procedure;

(2) maintaining venue in the county of suit does not unfairly prejudice another party to the suit;

(3) there is an essential need to have the person's claim tried in the county in which the suit is pending; and

(4) the county in which the suit is pending is a fair and convenient venue for the person seeking to join in or maintain venue for the suit and the persons against whom the suit is brought.

(b) A person may not intervene or join in a pending suit as a plaintiff unless the person, independently of any other plaintiff:

(1) establishes proper venue for the county in which the suit is pending; or

(2) satisfies the requirements of Subdivisions (1) through (4) of Subsection (a).

(c) Any person seeking intervention or joinder, who is unable to independently establish proper venue, or a party opposing intervention or joinder of such a person may contest the decision of the trial court allowing or denying intervention or joinder by taking an interlocutory appeal to the court of appeals district in which the trial court is located under the procedures established for interlocutory appeals. The appeal must be perfected not later than the 20th day after the date the trial court signs the order denying or allowing the intervention or joinder. The court of appeals shall:

(1) determine whether the joinder or intervention is proper based on an independent determination from the record and not under either an abuse of discretion or substantial evidence standard; and

(2) render its decision not later than the 120th day after the date the appeal is perfected by the complaining party.

Sec. 15.004. MANDATORY VENUE PROVISION GOVERNS MULTIPLE CLAIMS. In a suit in which a plaintiff properly joins two or more claims or causes of action arising from the same transaction, occurrence, or series of transactions or occurrences, and one of the claims or causes of action is governed by the mandatory venue provisions of Subchapter B, the suit shall be brought in the county required by the mandatory venue provision.

Sec. 15.005. MULTIPLE DEFENDANTS. In a suit in which the plaintiff has established proper venue against a defendant, the court also has venue of all the defendants in all claims or actions arising out of the same transaction, occurrence, or series of transactions or occurrences.

Sec. 15.006. VENUE DETERMINED BY FACTS EXISTING AT THE TIME OF ACCRUAL. A court shall determine the venue of a suit based on the facts existing at the time the cause of action that is the basis of the suit accrued.

Sec. 15.007. CONFLICT WITH CERTAIN PROVISIONS. Notwithstanding Sections 15.004, 15.005, and 15.031, to the extent that venue under this chapter for a suit by or against an executor, administrator, or guardian as such, for personal injury, death, or property damage conflicts with venue provisions under the Texas Probate Code, this chapter controls.

SECTION 2. Subchapter B, Chapter 15, Civil Practice and Remedies Code, is amended by amending Section 15.011 and by adding Sections 15.0115 and 15.018 to read as follows:

Sec. 15.011. LAND. Actions for recovery of real property or an estate or interest in real property, for partition of real property, to remove encumbrances from the title to real property, for recovery of damages to real property, or to quiet title to real property shall be brought in the county in which all or a part of the property is located.

Sec. 15.0115. LANDLORD-TENANT. (a) Except as provided by another statute prescribing mandatory venue, a suit between a landlord and a tenant arising under a lease shall be brought in the county in which all or a part of the real property is located.

(b) In this section, "lease" means any written or oral agreement between a landlord and a tenant that establishes or modifies the terms, conditions, or other provisions relating to the use and occupancy of the real property that is the subject of the agreement.

Sec. 15.018. FEDERAL EMPLOYERS' LIABILITY ACT AND JONES ACT. (a) This section only applies to suits brought under the federal Employers' Liability Act (45 U.S.C. Section 51 et seq.) or the Jones Act (46 U.S.C. Section 688).

(b) All suits brought under the federal Employers' Liability Act or the Jones Act shall be brought:

- (1) in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred;*
- (2) in the county where the defendant's principal office in this state is located; or*
- (3) in the county where the plaintiff resided at the time the cause of action accrued.*

SECTION 3. Sections 15.032 and 15.033, Civil Practice and Remedies Code, are amended to read as follows:

Sec. 15.032. INSURANCE. Suit against fire, marine, or inland insurance companies may also be commenced in any county in which the insured property was situated. A suit on a policy may be brought against any life insurance company, or accident insurance company, or life and accident, or health and accident, or life, health, and accident insurance company in the county in which the company's principal office in this state [home office of the company] is located or in the county in which the loss has occurred or in which the policyholder or beneficiary instituting the suit resided at the time the cause of action accrued [resides].

Sec. 15.033. BREACH OF WARRANTY BY MANUFACTURER. A suit for breach of warranty by a manufacturer of consumer goods may be brought in any county in which all or a substantial part of the events or omissions giving rise to the claim occurred [cause of action accrued], in the [any] county in which the manufacturer has its [may have an agency or representative, in the county in which the] principal office in this state [of the company may be situated], or in the county in which the plaintiff resided at the time the cause of action accrued [or plaintiffs reside].

SECTION 4. Section 15.062, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 15.062. COUNTERCLAIMS, CROSS CLAIMS, AND THIRD-PARTY CLAIMS. (a) Venue of the main action shall establish venue of a counterclaim, cross claim, or third-party claim properly joined under the Texas Rules of Civil Procedure or any applicable statute.

(b) *If an original defendant properly joins a third-party defendant, venue shall be proper for a claim arising out of the same transaction, occurrence, or series of transactions or occurrences by the plaintiff against the third-party defendant if the claim arises out of the subject matter of the plaintiff's claim against the original defendant.*

SECTION 5. Subchapter D, Chapter 15, Civil Practice and Remedies Code, is amended by adding Sections 15.0641 and 15.0642 to read as follows:

Sec. 15.0641. VENUE RIGHTS OF MULTIPLE DEFENDANTS. *In a suit in which two or more defendants are joined, any action or omission by one defendant in relation to venue, including a waiver of venue by one defendant, does not operate to impair or diminish the right of any other defendant to properly challenge venue.*

Sec. 15.0642. MANDAMUS. *A party may apply for a writ of mandamus with an appellate court to enforce the mandatory venue provisions of this chapter. An application for the writ of mandamus must be filed before the later of:*

- (1) *the 90th day before the date the trial starts; or*
- (2) *the 10th day after the date the party receives notice of the trial setting.*

SECTION 6. Subchapter D, Chapter 15, Civil Practice and Remedies Code, is amended by adding Section 15.066 to read as follows:

Sec. 15.066. CONFLICT WITH RULES OF CIVIL PROCEDURE. *Subject to Section 22.004, Government Code, to the extent that this chapter conflicts with the Texas Rules of Civil Procedure, this chapter controls.*

SECTION 7. Section 17.56, Business & Commerce Code, is amended to read as follows:

Sec. 17.56. VENUE. *Except as provided by Article 5.06-1(8), Insurance Code, an [An] action brought which alleges a claim to relief under Section 17.50 of this subchapter shall be brought as provided by Chapter 15, Civil Practice and Remedies Code [may be commenced in the county in which the person against whom the suit is brought resides, has his principal place of business, or has a fixed and established place of business at the time the suit is brought or in the county in which the alleged act or practice occurred or in a county in which the defendant or an authorized agent of the defendant solicited the transaction made the subject of the action at bar].*

SECTION 8. Article 5.06-1, Insurance Code, is amended by adding Section (8) to read as follows:

(8) *Notwithstanding Section 15.032, Civil Practice and Remedies Code, an action against an insurer in relation to the coverage provided under this article, including an action to enforce that coverage, may be brought only:*

- (a) *in the county in which the policyholder or beneficiary instituting the suit resided at the time of the accident; or*
- (b) *in the county in which the accident involving the uninsured or underinsured motor vehicle occurred.*

SECTION 9. Section 92.007, Property Code, is amended to read as follows:

Sec. 92.007. VENUE. *Venue for an action under this chapter is governed by Section 15.0115, Civil Practice and Remedies Code [in the county in which the premises are located].*

SECTION 10. Sections 15.036, 15.037, 15.040, and 15.061, Civil Practice and Remedies Code, are repealed.

SECTION 11. (a) Except as provided by Subsection (b) of this section, this Act applies only to a suit commenced on or after September 1, 1995. A suit commenced before September 1, 1995, is governed by the law applicable to the suit immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Venue under Section 15.018, Civil Practice and Remedies Code, as added by this Act, applies only to a suit commenced on or after January 1, 1996. Venue under that section for a suit commenced before January 1, 1996, is governed by the law applicable to the suit immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 19, 1995: Yeas 28, Nays 1; the Senate concurred in House amendments on May 8, 1995, by a viva-voce vote; passed the House, with amendments, on May 4, 1995, by a non-record vote.

Approved May 18, 1995.

Effective August 28, 1995, 90 days after date of adjournment.

CHAPTER 139

H.B. No. 383

AN ACT

relating to liability of certain governmental units and to the employees and officers of those units.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 101.055, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 101.055. CERTAIN GOVERNMENTAL FUNCTIONS. This chapter does not apply to a claim arising:

- (1) in connection with the assessment or collection of taxes by a governmental unit;
- (2) from the action of an employee while responding to an emergency call or reacting to an emergency situation if the action is in compliance with the laws and ordinances applicable to emergency action, or in the absence of such a law or ordinance, if the action is *not* taken with conscious indifference or reckless disregard for the safety of others; or
- (3) from the failure to provide or the method of providing police or fire protection.

SECTION 2. Section 104.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 104.001. STATE LIABILITY; PERSONS COVERED. In a cause of action based on conduct described in Section 104.002, the state shall indemnify the following persons, *without regard to whether the persons performed their services for compensation*, for actual damages, court costs, and attorney's fees adjudged against:

- (1) an employee, a member of the governing board, or any other officer of a state agency, institution, or department;
- (2) a former employee, former member of the governing board, or any other former officer of a state agency, institution, or department who was an employee or officer when the act or omission on which the damages are based occurred;
- (3) a physician or psychiatrist licensed in this state who was performing services under a contract with any state agency, institution, or department or a racing official performing services under a contract with the Texas Racing Commission when the act or omission on which the damages are based occurred;
- (4) a person serving on the governing board of a foundation, corporation, or association at the request and on behalf of an institution of higher education, as that term is defined by Section 61.003(8), Education Code, not including a public junior college; or
- (5) the estate of a person listed in this section.